

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

*Plaintiff,*

v.

No. 1:18-cv-00750-KG-JFR

2012 MINI COOPER  
VIN:WMWSV3C59CTY16837,

1995 HUMMER  
VIN:137YZ9038SE160537,

7 DESIGNER ACCESSORY ITEMS,

*Defendants-in-rem.*

and

JOHN GALLEGOS, JR, AND  
CODY BURGE,

*Claimants.*

**ORDER DISMISSING CLAIMANT CODY BURGE'S CLAIM WITH PREJUDICE**

This matter is before the Court on the United States' unopposed motion to dismiss Claimant Cody Burge's claim with prejudice. (Doc.23). The Court, having read the motion and being fully advised in the premises, finds that the motion is well taken and will be granted.


WHEREAS, Claimant has declined to respond to requests for admission and special interrogatories propounded by plaintiff on June 8, 2020 (*see* Docs. 21 and 22) and is not participating in this lawsuit.

WHEREAS, Fed.R.Civ.P. 41(b) provides that "If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any

claim against it.” A dismissal under Rule 41(b) operates as an adjudication on the merits. This rule applies to any counterclaim, crossclaim, or third-party claim. Fed.R.Civ.P. 41(c).

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

Claimant Cody Burge’s verified claim of ownership to the Defendant 7 designer accessory items filed on November 19, 2018 (Doc. 5) is hereby dismissed with prejudice pursuant to Fed.R.Civ.P. 41(b) and (c).



UNITED STATES DISTRICT JUDGE

SUBMITTED BY:

Submitted via email on 7-15-2020

STEPHEN R. KOTZ

Assistant U.S. Attorney

APPROVED AS TO FORM:

Approved via email on 7-15-2020

HON. PAUL J. KENNEDY

KENNEDY, HERNANDEZ AND ASSOCIATES PC

Attorneys for Claimant Cody Burge.